

07/03/2019

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

JULIA C. DUDLEY, CLERK
BY: *H. Wheeler*
DEPUTY CLERK

ELIZABETH SINES et al.,)	
Plaintiffs,)	Civil Action No. 3:17-cv-00072
)	
v.)	<u>ORDER TO DEFENDANT</u>
)	<u>MATTHEW HEIMBACH</u>
)	
JASON KESSLER et al.,)	By: Joel C. Hoppe
Defendants.)	United States Magistrate Judge
)	

On July 2, 2019, the Court held a telephonic hearing on the record with Plaintiffs' counsel and pro se Defendant Matthew Heimbach¹ to identify Heimbach's outstanding discovery obligations, set a schedule for him to comply with those obligations, and discuss other procedural matters. *See* Order of June 21, 2019, at 2, ECF No. 508. Heimbach, who appeared and participated as directed, confirmed that he has received each of the Orders, discovery requests, and Stored Communications Act ("SCA") consent forms that explain his outstanding discovery obligations. *See id.* at 2–4. Accordingly, Heimbach shall comply with the following steps and deadlines:

1. Within **seven (7) days** from the date of this Order:
 - a. Give Plaintiffs' counsel a complete and accurate SCA consent form(s) allowing **Discord, Twitter**, and any other social media provider to produce any discoverable documents or electronically stored information ("ESI") requested by Plaintiffs' counsel in this lawsuit. *See* Order of June 21, 2019, at 3; Order of Nov. 12, 2018, at 2, ECF No. 379.

¹ Other Defendants also appeared and participated at the hearing.

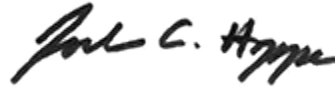
- b. Execute the Third Party Discovery Vendor contract mentioned in the Stipulation and Order for the Imaging, Preservation, and Production of Documents, ECF No. 383 (“Imaging Order”). *See* Order of June 21, 2019, at 3; Order of Mar. 4, 2019, at 2–3, ECF No. 440.
 - c. Complete and give to Plaintiffs’ counsel the Certification Form attached as Exhibit A to the Imaging Order. *See* Order of June 21, 2019, at 3; Order of Mar. 4, 2019, at 2–3.
2. Within **fourteen (14) days** from the date of this Order:
- a. Make available to the Third Party Discovery Vendor for imaging and collection any Electronic Devices or Social Media Account credentials identified in the Certification Form. *See* Order of June 21, 2019, at 3; Order of Mar. 4, 2019, at 3. After the Discovery Vendor has collected all ESI responsive to the parties’ agreed-upon search terms, the Court will set another deadline for Heimbach to review the results and produce all nonprivileged materials to Plaintiffs’ counsel. *See* Order of June 21, 2019, at 3 n.2.
3. Within **twenty-one (21) days** from the date of this Order:
- a. Provide complete and accurate written answers to Plaintiffs’ First Set of Interrogatories. *See* Order of June 21, 2019, at 3 & n.2; Order of Mar. 26, 2018, at 3, ECF No. 287.
 - b. Provide complete and accurate written responses to Plaintiffs’ Requests for Production of Documents, and produce or permit inspection of any requested documents or ESI that were not collected by the Discovery Vendor. *See* Order of June 21, 2019, at 3 & n.2; Order of Mar. 26, 2018, at 3.

4. On **Friday August 9, 2019**, Heimbach shall sit for a deposition by Plaintiffs' counsel devoted exclusively to his conduct in pretrial discovery, including his efforts to preserve any documents, information, or materials that are potentially relevant to this litigation. *See* Order of June 21, 2019, at 4. The Court expects that Heimbach will participate in good faith as required by the Federal Rules of Civil Procedure and this Court's prior discovery orders. *See id.* at 2. Plaintiffs are given leave to depose Heimbach in subsequent depositions on the merits of Plaintiffs' allegations. *Id.* at 4; Fed. R. Civ. P. 30(a)(2)(A)(ii)).

It is so ORDERED.

The Clerk shall send a copy of this Order to the parties.

ENTER: July 3, 2019

A handwritten signature in black ink, appearing to read "Joel C. Hoppe".

Joel C. Hoppe
U.S. Magistrate Judge